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**UNITED STATES DISTRICT COURT**  
**FOR THE WESTERN DISTRICT OF WASHINGTON**

OLYMPUS SPA, JANE DOE EMPLOYEE, JANE  
DOE PATRON<sup>1</sup>,

Plaintiffs,

vs.

ANDRETA ARMSTRONG , in her official  
capacity as Executive Director of the Washington  
State Human Rights Commission, MADISON  
IMIOLA, in her official and individual capacities as  
Civil Rights Investigator for the Washington State  
Human Rights Commission,

Defendant.

Case No. 22-CV-00340-BJR

**AMENDED COMPLAINT FOR  
DAMAGES, DECLARATORY  
AND INJUNCTIVE RELIEF [42  
U.S.C 1983]**

[Demand for Jury Trial]

COMES NOW Plaintiffs who allege as follows:

**INTRODUCTION**

1. Olympus Spa requires nudity as a bona fide entry mandate, and the services require  
 2 touching of the naked body of women by women. All employees and patrons are women. A pre-  
 3 operative self-identified activist transgender woman (a male who identifies as a woman) seeking  
 4 access to the spa filed a complaint with the Washington State ~~HuH~~uman Rights Commission. The  
 5 basis of the complaint was an allegation of violation of the State's public accommodations law due  
 6 to the Spa denying [Haven Wilvich] entry. Under Washington law, failure to comply with the  
 7 State's public accommodation law can lead to prosecution, lawsuits, and fines causing ruinous  
 8 financial burdens on the spa. ~~Olympus Spa has never been a place of public accommodation in that~~  
 9 ~~it has always, only, allowed women due to the nudity requirement~~Despite being a female only spa  
 10 the HRC and Haven Wilvich assert that Olympus is a place of public accommodation. Since  
 11 inception Olympus Spa has served women in their intimate spaces in a private setting. The family  
 12 run business is owned by Korean Christians who hold sincere faith-based convictions against  
 13 allowing persons whose genitals are external (males) to be present with persons whose genitals are  
 14 internal (females) while in a state of partial or full undress if such persons are not married to one  
 15 another. This belief has it's foundation in faith and culture. What is more, the spa's all female  
 16 patrons will be subjected to visual violation, anguish, and rage if males are allowed access to the  
 17 exclusively nude female facility. Further, the all-female staff will be forced to view ~~and touch~~ the  
 18 male ~~genitalia (some for the first time in their life)~~ during treatment(s). Not surprisingly, the  
 19 customers and employees have clearly communicated that they will not return under such  
 20 circumstances, causing the business to spiral into bankruptcy. This Korean Christian owned and  
 21 operated spa is thus caught between the Scylla of punitive sanctions imposed by the State and the  
 22 Charybdis of violating religious convictions. Therefore, Plaintiffs seek redress in the courts.  
 23

## 25 DEFINITIONS

26. For purposes of this Complaint, the following definitions are used.

- 1       a.       *male*: a person whose genitals are external (Unless a modifier indicates otherwise, all  
2 references to “man” or its cognates refers to a *male*).  
3
- 4       b.       *female*: a person whose genitals are internal (Unless a modifier indicates otherwise, all  
5 references to “woman” or its cognates refers to a *female*).  
6
- 7       c.       *gender expression or identity*: having or being perceived as having a gender identity, self-  
8 image, appearance, behavior, or expression, whether or not that gender identity, self-image,  
9 appearance, behavior, or expression is different from that traditionally associated with the sex  
10 assigned to that person at birth. Wash. Rev. Code § 49.60.040(27)  
11
- 12      d.       *transgender woman*: a person who is biologically male but identifies as a woman.  
13
- 14      e.       *transgender man*: a person who is biologically female but identifies as a man.

## PARTIES

### PLAINTIFFS

- 14     3. Plaintiff, Olympus Spa, is a business entity incorporated in the State of Washington. The  
15 Spa is specifically designed for women in which its services are closely tied to the Korean tradition  
16 which requires its users to be naked while undergoing certain services.
- 17     4. Plaintiff, Jane Doe Employee 1, is a female who works at Olympus Spa where she provides  
18 services and treatments for female patrons who are naked or in a partial state of undress.
- 20     5. Plaintiff, Jane Doe Patron 1, is a female who frequents Olympus Spa where she is provided  
21 services and treatments while naked or in a partial state of undress.
- 22     6. ~~Plaintiff, Jane Doe Patron 2, is a female who frequents Olympus Spa and is a Christian.~~
- 24     7. ~~Plaintiff, Jane Doe Patron 3, is a transgender woman whom has had confirmation surgery  
25 and has no external genitalia presents as female while nude..~~

### DEFENDANTS

1       8.6. Defendant, Andreta Armstrong,<sup>1</sup> is the executive director of the Washington State Human  
 2 Rights Commission. She is charged with enforcement of the anti-discrimination laws challenged  
 3 here and codified under the Revised Code of Washington §§ 49.60 et seq. Director Armstrong<sup>Ortiz</sup>  
 4 is sued in her official capacity.  
 5

6       9.7. Defendant, Madison Imiola, is a Civil Rights Investigator for the Washington State Human  
 7 Rights Commission. Investigator Imiola is sued in both her individual and official capacities.  
 8

## JURISDICTION AND VENUE

9       10.8. This court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §  
 10 2201.  
 11

12       11.9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2), (c)(2), and (d) because  
 13 the events giving rise to the claim occurred in Lynnwood, Washington, for which the Western  
 14 District of Washington maintains jurisdiction.  
 15

16       12.10. This action is brought pursuant to the First and Fourteenth Amendments to the United States  
 17 Constitution, 42 U.S.C. § 1983. This Court has pendent jurisdiction over state claims.  
 18

## FACTS

19       13.11. Sun Lee is a Korean Christian and the president of two exclusive women's (female) Korean  
 20 spas called Olympus Spa located in the cities of Tacoma and Lynnwood in the State of Washington.  
 21 Olympus Spa has been in business for more than 20 years and was established by Sun Lee's  
 22 parents.  
 23

24       14.12. Sun Lee's parents fled Korea seeking freedom in faith and personhood in the United States  
 25 of America. In order to hold fast to cultural underpinnings and avoid the dissipation of traditions  
 26 held dear in the Korean way of life<sup>tradition</sup> Sun Lee's parents opened Olympus Spa.  
 27

1       15.13. The Spa exists to bring health, peace, safety, and welfare to women who can freely associate  
 2       in a safe space. Like all businesses, Olympus Spa has a target audience/clientele around which it  
 3       built its business model in order to ensure success and viability as well as compliance with decency  
 4       laws regarding nudity.

5  
 6       16.14. Unlike other publicly available goods and services Olympus Spa caters to the most  
 7       vulnerable and marginalized groups: females. The dignity interests of this marginalized group  
 8       ~~are~~is the priority of Olympus Spa. Tacoma ~~and Lynwood~~ has a female population rate of  
 9       ~~5049.6%~~ and Asian population of approximately 8.8%, respectively. Over time, the customer base  
 10      has expanded from predominately Korean/Asian female customers to female customers of all  
 11      ethnicities, backgrounds, and races. Women, as a protected class, are the priority of Olympus Spa to  
 12      the exclusion of males.

13  
 14       17.15. Nonconsensual ~~pornography~~ is the physical viewing of a nude body without the consent of  
 15      both parties appeals to the prurient interest and is not the goal of Olympus Spa. The patrons of  
 16      Olympus Spa have never, nor would they ever, consent to the intimate viewing of their naked  
 17      bodies with a person of the opposite sex. In considering the dignity interests of their clients,  
 18      Olympus Spa cannot condone the unwanted viewing of the body as amongst the sexes.

19  
 20       18.16. For Olympus Spa to change the business model to allow consensual ~~pornography~~ (the  
 21      viewing of naked bodies as amongst male and females) would be ~~such a significant catastrophic~~  
 22      shift in the business model ~~it would constitute a taking by the State so as to render the business~~  
 23      inoperable as a matter of law. In this context, the HRC is stating that the culture and faith of  
 24      Plaintiffs is unlawful.

25  
 26       19.17. “The Washington Law Against Discrimination was enacted to ensure the health, peace,  
 27      safety, and general welfare of the people of Washington.” *Ockletree v. Franciscan Health Sys.*, 317

1 P.3d 1009, 1012 n.2 (Wash 2014), RCW 49.60.010. While not exclusive, WLAD defines the  
 2 general right of public accommodation to include: “....facilities, or privileges of any place of public  
 3 resort, accommodation, assemblage, or amusement. *Id.* §49.60.030(1)(b).  
 4

5 **20.18.** Nudity is illegal in public places in Washington, as codified in RCW 9A.88.010, Indecent  
 6 Exposure. Places which are open to the public, that is to say places of public accommodation, have  
 7 a bona fide clothing requirement. A person is subject to fines and possible criminal penalties for  
 8 violating the laws of decency. Because it is ~~not open to the public and/or~~ is a place open to females  
 9 exclusively of quasi-public accommodation, Olympus Spa is ~~not subject to the [Indecent Exposure]~~  
 10 ~~law(s) of Washington State~~not subject to the public indecency laws as long as nudity between the  
 11 sexes is not allowed.

12 **21.19.** WLAD, RCW 49.60, was adopted in 1947 and includes prohibitions on age and gender  
 13 discrimination. Amendments to the law in 2006 incorporated transgender individuals in the  
 14 protected classes of persons. The operation of the Spa as a quasi-public facility has always  
 15 restricted entry on the basis of age and gender, and the policy predates the 2006 amendment.  
 16

17 **22.20.** Olympus Spa is specifically designed for females. The facility has a bath area containing  
 18 multiple whirl-pools, a traditional Korean body-scrub service area, standing showers, sit-down  
 19 showers, steam room and dry sauna. Patrons are required to be fully naked when using these  
 20 sections of the spa and no towels or other coverings are provided/allowed.  
 21

22 **23.21.** A female receiving a Korean body scrub service or massage at Olympus Spa must do so  
 23 fully nude and in the open area of the whirl-pool and saunas within view of all patrons and staff.  
 24 The employees who provide body scrubs (*ddemiri*) and massages are all females. Indeed, every  
 25 employee who works on site is a female. Nudity is required for all procedures called “Seshin”  
 26

1 according to Korean tradition. It is Olympus Spa's business purpose to provide traditional Korean  
 2 kiln saunas and exfoliation therapy experiences. (*Exfoliation* is the removal of dead skin cells).  
 3

4 **24.22.** Harkening back to the Choson dynasty (1392 - 1910), these strict sex-segregated bathing  
 5 practices have been adhered to in Korean culture. In Western culture nudity is also not allowed in  
 6 places of public accommodation as a matter of regulating the peace, health, and general welfare of  
 7 society.

8 **25.23.** To perform these treatments, employees must remain in close physical proximity to  
 9 patrons, view patrons who are undressed, and continually touch patrons' bodies. The  
 10 touching is prolonged, intimate, and detailed.—The employees scrub all portions of a  
 11 females' body save the aereolas, nipples, and inner labial areas. ~~On a pre-operative~~  
 12 ~~transgender woman or a man~~, ~~it would be impossible for the employee not to touch the~~  
 13 ~~genitalia as they are exterior~~. Such intimate touching by a female employee on a body which  
 14 presents male in the nude would be indecent. ~~The~~his prolonged visual access and touching in close  
 15 proximity to exterior genitalia is prohibited by the faith of many employees, and a forced intimate  
 16 association bordering on illegal activity.  
 17

18 **26.24.** There is full prior disclosure to patrons of the conditions to entry and for these physical  
 19 procedures. The physical touching and viewing of the unclothed patrons are done by mutual  
 20 consent of both the patron and the employee. Patrons are not notified that their naked bodies can be  
 21 subject to viewing by men or pre-operative transgender women (external genitalia persons).  
 22

23 **27.25.** As traditional theologically conservative Korean Christians, the owners believe in modesty  
 24 as between the sexes. They hold the conviction that a male and a female should not ordinarily be in  
 25 each other's presence while in the nude unless married to each other. Viewing of genitalia as  
 26

1 between opposite sexes who are not married are against the theological teachings of the owners, as  
 2 well as public decency laws regarding nudity and touching.  
 3

4 [28.26.](#) The spa will admit a transgender woman who has has gone through [post-operative] sex  
 5 confirmation surgery. If someone physically presents in the nude as a female, as Haven Wilvich  
 6 does, the spa does not ask questions. Indeed, it would be impertinent to do so. In like manner, a  
 7 transgender man who has had sex reassignment surgery and presents in the nude as a male would  
 8 not be allowed access to the spa.

9 [29.27.](#) Jane Doe Employee 1 is a female who works at Olympus Spas. She is a Christian  
 10 who believes that males and females should not be together in a state of full or partial  
 11 undress if not married to each other. As such, she will not perform services such as  
 12 massages and body scrubs on naked men (males). Her religious convictions are sincerely  
 13 held and are consistent with her employer. She is faced with the dilemma of losing her job  
 14 or violating her conscience which is informed by her faith. Jane Doe Employee 1 is Korean  
 15 and does not speak English. Losing her job would present a hardship particularly  
 16 challenging for her as a member of two protected classes and no other job training.  
 17

18 [28.](#) Jane Doe Patron 1 is a female who frequently receives treatments at Olympus Spaas.  
 19 As per the traditional Korean treatments for females, the treatments that she receives are  
 20 done while naked or in a state of partial undress. She is a Christian who believes that men  
 21 and women should not be viewing each other's naked bodies unless married to each other.  
 22 Further, she chooses to associate with like-minded females at Olympus Spa. This is based  
 23 on her sincerely held religious convictions. Nonconsensual viewing of a person while nude  
 24 violates the privacy interest of the clientele and the right to intimate association(s). She does  
 25 not consent to the visual pornography inherent in viewing exterior genitalia presenting  
 26

1 ~~persons, and would hold the spa liable for any such viewing being viewed by anyone with~~  
 2 ~~exterior genitalia in a public setting.~~

3 30.29. Objectification of women through forced intimate association with the opposite sex  
 4 is not a valid interest of the HRC.

5 31.30. There have been incidents where a male was able to gain access to the facility  
 6 without asking about the Olympus Spa policy and entered the spa. A particular incident  
 7 occurred about six years ago when a female patron came to the front of the spa to notify  
 8 employees that a customer with male genitals was roaming around the spa. The manager on  
 9 duty went to talk to the male and at the moment that individual was walking from the  
 10 restroom stall with an open front robe. This was where the manager was able to confirm  
 11 that the patron was a transgender woman with male genitals. The manager politely asked to  
 12 speak with the male patron in private and explained the Olympus Spa female only policy.  
 13 Luckily, the customer understood and left the spa. A few upset customers who were visiting  
 14 that day asked for refunds and left the spa.

15 32.31. In other incidents, female patrons noticed male genitals exposed in the locker room  
 16 and/or pool area. During these incidents, the female patrons experienced humiliation,  
 17 trauma and rage that a male was present and asked for refunds and cancelled their  
 18 appointments, leaving and never coming back.

19 33.32. Haven Wilvich self-describes as an ~~activist~~activists<sup>1</sup> transgender woman. Haven Wilvich  
 20 (“Wilvich”) is biological male -and grew up in a Christian home, was married to a woman as a man

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 22  
 23  
 24  
 25  
 26 <sup>1</sup> <https://findinghaven.blog/2020/07/27/finding-haven/>

1 for six years, and is now married to a woman as a woman, Wilvich has always been attracted to  
 2 women.

3       34.33. Wilvich's activist history began at Seattle Pacific University where he (at that time Wilvich  
 4 was not a transgender individual but a ~~self-described~~self-described "ally") boasted that he found  
 5 himself on the cover of the school newspaper every week for six weeks, and eventually "scared" the  
 6 University into giving the "Haven" group back their space.<sup>2</sup> "[V]ery angry at the world"<sup>3</sup> is  
 7 Wilvich's feelings expressed in a blog post titled "[explicative]"~~F\*%\$%~~ America." Together, the  
 8 HRC investigator and Wilvich show hostility towards the faith and traditions of Olympus Spa  
 9 through the reporting of false information, by Wilvich, and failure, by the HRC, to properly  
 10 investigate false claims. They engage in activism and patrol the State to police thought and  
 11 language. Wilvich brags of "work[ing] with the HRC" to change the policies of Olympus Spa.<sup>4</sup> As  
 12 applied, this enforcement of WLAD by the HRC in conjunction with activism is not neutral nor  
 13 generally applicable and shows targeted animus.

14       35.34. On May 2, 2020,<sup>5</sup> Wilvich filed a complaint, arising from alleged discrimination in public  
 15 accommodation, with the Washington Human Rights Commission. The complaint alleges that  
 16 Wilvich ~~h~~-visited the Lynnwood spa in January 2020, writing, "In January 2020, I went to  
 17 Respondent's spa for services. Respondent Owner denied me services and stated that transgender  
 18 women without surgery are not welcome...I believe I have been discriminated against because of  
 19 sexual orientation when Respondent denied me equal- services based on ~~my~~ sexual orientation."  
 20 Based on the above allegations, Wilvich claimed "an unfair practice and/or aiding and abetting in

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24       <sup>2</sup> *Id.*

25       <sup>3</sup> <https://findinghaven.blog/2021/10/12/angry-at-the-world/>

26       <sup>4</sup> <https://twitter.com/WomenReadWomen/status/1667082814779691009/photo/2>

27       <sup>5</sup> Wilvich's complaint to the HRC is dated as "filed" 2-13-2020 in the "Commission Use Only Box,  
 28 but the physical complaint is signed and dated 5-2-2020, Exhibit 1.

1 the commission of an unfair practice as defined by the Washington State Law Against  
 2 Discrimination, Chapter 49.60.” The complaint is attached as Exhibit 1 to the Declaration of Sun  
 3 Lee.

4  
 5 36. Following the filing of this suit Wilvich interviewed with Fox 13 and the Lynwood Times  
 6 and now contends having never actually entered the Spa, as originally alleged in the written  
 7 complaint (Ex. 1), but called ahead of a friends’ visit to the Spa. What is more, Wilvich underwent  
 8 bottom surgery on August 3, 2020.<sup>6</sup> By the time the HRC investigation of the complaint<sup>7</sup> began  
 9 Haven had no standing to allege discrimination on the basis of denial of entry to Olympus Spa.

10 35.

11  
 12 37.36. Wilvich claims, “I realized something important today. I’m more woman than any TERF  
 13 will ever be because I am an intentional woman whereas they are only incidental.” The meaning of  
 14 “TERF” is *trans exclusionary radical feminist*. Wilvich further stated, “I think ‘chosen’  
 15 womanhood is just as valid, if not more valid, than people who don’t analyze their gender, who  
 16 don’t think critically about the role that they’ve been given in society.” This statement conveys  
 17 contempt and open hostility towards traditional females, a protected class.

18  
 19 38.37. Six months thereafter, on November 24, 2020, the Human Rights Commission served its  
 20 Notice of Complaint of Discrimination. The Human Rights Commission opened an investigation  
 21 and demanded a response from the respondent, Olympus Spa. The Commission also stated that  
 22 refusing to turn over requested evidence during the investigation will subject the business to legal  
 23 actions pursuant to Washington Administrative Code §§ 162-08-097 and 162-08-09501. This

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24  
 25 <sup>6</sup> <https://findinghaven.blog/2020/08/02/surgery-is-tomorrow/>

26 <sup>7</sup> November 24, 2020 was the date of the first communications from the HRC to Olympus Spa, Ex.  
 2.

1 includes prosecution as a misdemeanor. Wash. Rev. Code § 30.610. The notice and demand ~~is~~are  
 2 attached as Exhibit 2 to the Declaration of Sun Lee.

3 ~~39.38.~~ On March 12, 2021, the Commission’s investigator, Madison Imiola, delivered a second  
 4 Notice of Complaint of Discrimination to Olympus Spa. The Notice of Complaint demanded that  
 5 Olympus Spa provide a response with a statement of plaintiff Olympus Spa’s position by March 29,  
 6 2021. This second noticed and demand is attached as Exhibit 3 to the Declaration of Sun Lee.

7 ~~40.39.~~ On March 25, 2021, Olympus Spa responded to the Commission denying that it’s women-  
 8 only rule violates 49.60 of the Washington Revised Code. The Spa stated that the nudity  
 9 requirement is consistent with Washington Administrative Code § 162-32-050. Olympus Spa’s  
 10 position is that nudity is required for certain procedures called “Seshin” according to Korean  
 11 tradition. In addition, Olympus Spa’s female-only policy, allowing only biological women and  
 12 excluding transgender women without surgery, fits Snohomish County Code §§ 10.04.035 and  
 13 10.04.025. Allowing female minors to be exposed to naked persons with male genitalia could  
 14 potentially give rise to criminal liability for staff and/or guests. Olympus Spa is unwilling to take  
 15 the risk of placing themselves, their employees or their customers in legal jeopardy. The response  
 16 of Olympus Spa is attached as Exhibit 4 to the Declaration of Sun Lee.

17 ~~41.40.~~ Despite proof that Wilvich never set foot in either spa locations, in a letter dated April 14,  
 18 2021 (attached as Exhibit 5 to the Declaration of Sun Lee) Investigator Imiola of the Human Rights  
 19 Commission deemed Olympus Spa as having violated the Washington Law Against Discrimination  
 20 in a place of public accommodation for two reasons: (1) Female Language and (2) Female Only  
 21 Policy. These are described as follows:

22  
 23  
 24 a. *Female Language (“Biological Women”)*

1 First, Olympus Spa has a female only policy and actually uses the term “biological women,” ~~used~~  
 2 on the Olympus Spa website. This language violates Washington’s antidiscrimination laws.  
 3 Beyond that, the Human Rights Commission demanded removal of the term “biological women”  
 4 from Olympus Spa’s website. This state censorship was backed by the threat of referral to the  
 5 Attorney General’s Office for prosecution.

6 b. *Female Only Policy*

7 In official correspondence with the president of Olympus Spa, Investigator Imiola wrote,

8 When dress and grooming standards are applied only to a protected class and are applied  
 9 specifically *because of* the protected class status, the standards are discriminatory. This is the  
 10 case with Olympus Spa’s policy, which denies services to transgender women who have not  
 11 had surgery specifically because their physical appearance is not ‘consistent’ with the  
 12 traditional understanding of biological women. ‘Gender identity’ is defined in law as “having  
 13 or being perceived as having a gender identity, self-image, appearance, behavior, or  
 14 expression, whether or not that gender identity, self-image, appearance, behavior, or  
 15 expression is different from that traditionally associated with the sex assigned to that person  
 16 at birth.” [RCW 49.60.040(27)]. This definition does not use genitals to define gender identity  
 17 and it recognizes that a person’s gender identity can be different from the biological sex  
 18 assigned to that person at birth.

19 The statutory phrase “sex assigned to that person at birth” carries the implication that medical  
 20 providers that fill out a birth certificate act with either caprice, bureaucratic indifference, or  
 21 ignorance. There is nothing in the legislative record evidencing that medical professionals filling  
 22 out birth certificates are acting in a manner that is anything but consistent with their training in the  
 23 physical sciences, including biology. The language used by Ms. Imiola implies that the policy has  
 24 to do with “dress and grooming” standards applying only to a protected class because of their  
 25 status. Not so. To this day, Wilvich is a transgender woman and would be allowed entry. The only  
 26 requirement [of being female or presenting as such nude] is applied to all classes (that is to say all  
 27 Korean, American, Transgender, Homosexuals, Queers, Chinese, Lebanese, Transgender  
 28 individuals, et al are allowed as long as they present in the nude as female) equally.

1 The letter continues,

2  
3 However, Olympus Spa's 'biological women' policy focuses on the genitals of patrons rather  
4 than allowing transgender women to access your facilities based on their gender identity, as  
5 required by WAC 162-32-060. Additionally, any dress and grooming standards Olympus Spa  
cites are clearly applied unequally to patrons of the spa, as cisgender women are allowed to  
be fully nude in the spa while transgender women who have not had surgery are prohibited  
from even entering the spa. Exh. 6, p. 2.

6  
7 The Investigator Imiola's use of the term "cisgender women" is improper in that it does not  
8 appear in the Washington Law Against Discrimination or any other Act passed by the  
9 Legislature. *Cisgender* is an activist term not included in any legislative, administrative, or  
10 other code published by the State. By "cisgender women" Plaintiffs are informed and  
11 believe that the Human Rights Commission is adopting the language of transgender activists  
12 who use *cisgender* as a pejorative for *female*. Plaintiffs find the use of that term as based in  
13 animus against traditional females who are content with their femininity and do not wish to  
14 share intimate spaces with males with whom they are not married.  
15

16 42.41. The president of Olympus Spas, Sun Lee, interviewed employees and checked  
17 records. No employee has a recollection of Wilvich or any other pre-operative transgender  
18 woman-male attempting to gain entry to the Olympus Spa at either location during the time  
19 alleged, January 2020.<sup>8</sup> As such, correspondence, dated May 17, 2021, was submitted by  
20 Sun Lee to Investigator Imiola —denying the allegation. This notice and demand is attached  
21 as Exhibit 7 to the Declaration of Sun Lee.  
22

23 43.42. In a letter dated June 7, 2021, in response to Sun Lee's letter confirming that there is  
24 no record of Wilvich having attempted to enter the Spa, Investigator Imiola wrote what can

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25  
26 <sup>8</sup> Wilvich later stated in interviews that she had not been to the spa as previously alleged but merely  
27 called.  
28

1 only be described as a puzzling response which reads in part, “The time to ensure that  
 2 Haven Wilvich does not **feel** discriminated against has passed, as Ms. Wilvich already filed  
 3 a complaint of discrimination with the Washington State Human Rights Commission.” A  
 4 true and correct copy of the letter is attached as Exhibit 8. Wilvich stated in the complaint  
 5 that he went to the spa and was denied services. That is a sharply disputed fact by the  
 6 Olympus Spa owner and employees. In fact, Wilvich has stated for publication that a  
 7 telephone call to Olympus Spa was made rather than an actual visit.  
 8

9 **44.43.** As applied, the WLAD is being ~~used in an arresting as opposed to neutral~~  
 10 ~~manner used in an inquisitional manner, not neutrally~~. Further, it is not generally applicable  
 11 but applied in a manner as to enforce activism on behalf of one group of protected  
 12 individuals. The language used by Investigator Imiola is a personal opinion thinly disguised  
 13 as law. She stated, “[the Spa] denies services to transgender women who have not had  
 14 surgery because their physical appearance is not ‘consistent’ with the traditional  
 15 understanding of biological women.” The Plaintiffs’ traditional views are biblical and  
 16 inextricably linked to their faith and operation of their business. ~~The WLAD does not use~~  
 17 ~~genitals to define gender identity because the concept of nudity as a constitutional right~~  
 18 ~~protected by the WLAD in places of quasi-public accommodation was not contemplated. If~~  
 19 ~~the Legislature did intend so it would have included language to that effect (i.e. that~~  
 20 ~~traditional understandings of biological women need not comport with physical appearance~~  
 21 ~~when nude).~~

23 **45.44.** The Human Rights Commission has determined guilt by the act of the filing of a  
 24 complaint and is entirely incurious as to whether the predicate fact of the presence of  
 25 Wilvich at the spa is true or not. In this way, the HRC, through its agent Ms. Imiola, is  
 26

1 being weaponized by activists who contrive complaints in order to stir up strife. The health,  
 2 peace, and welfare of Washingtonians is not protected by the HRC using a neutral law of  
 3 general applicability as an arrow in its [WLAD] quiver. ~~No law is neutral and generally~~  
 4 ~~applicable when used to police thought and speech~~<sup>[MOUH.]</sup>

5  
 6 46.45. Investigator Imiola writes, “the WSHRC has already identified that Olympus Spa’s  
 7 ‘biological women’ entry policy is not compliant with the Washington Law Against  
 8 Discrimination (WLAD), RCW 49.60, which prohibits discrimination on the basis of gender  
 9 identity in places of public accommodation.” Investigator Imiola then gave an ultimatum to  
 10 enter into a “Pre-Finding Settlement” or the representative will “proceed accordingly by  
 11 preparing the case for referral to the Attorney General’s Office for prosecution.”

12 47.46. Faced with this threat, Sun Lee responded,

13  
 14 Thank you for your letter. Olympus Spa would like to take the opportunity to, as you say,  
 15 “correct its policies and the issues alleged by Ms. Wilvich’s complaint.” Although we have  
 16 told you that we have never had Ms. Wilvich on the premises, nor denied entry we understand  
 17 that these responses have fallen on deaf ears. We have removed the language you alleged as  
 discriminatory from our website and would like to see the Pre-Finding Settlement details.  
 Exhibit 7

18 ~~Union Gospel Mission, a faith based 501(c)(3) is entangled in a legal battle stemming from  
 allegations of violations of WLAD. Civ. Case. No. : 1:23-cv-3027~~

19  
 20 48.47. On July 14, 2021, the representative from the Human Rights Commission wrote a  
 21 letter with three terms, as follows:

22

- Olympus Spa has already addressed the first proposed term by changing the  
 23 language on its website to remove references to “biological women”. The PFS would  
 memorialize this change and acknowledge Olympus Spa made the change prior to signing  
 24 the PFS agreement.
- Secondly, the WSHRC would like to provide Olympus Spa with training materials to  
 25 ensure Olympus Spa’s understanding of the Washington Law Against Discrimination (RCW  
 49.60), give you resources for future reference, and assist Olympus Spa with maintaining  
 26 legal compliance going forward.

1     ● The third and final term we propose is for the WSHRC to review Olympus Spa's  
2 policies to ensure they comply with the Washington Law Against Discrimination (RCW  
49.60).

3 49.48. The Commission sent a draft settlement agreement to Olympus Spa for review.  
4 Exhibit 10. Olympus spa inserted language in the settlement agreement to reserve it's right  
5 to bring a legal challenge as to the constitutionality of the agreement, the operative statutes  
6 and implementing regulations, and related policies of the Washington State Human Rights  
7 Commission. The representative of the Washington State Human Rights Commission sent a  
8 final draft to Olympus Spa which included the reservation of right to bring a legal challenge.  
9 The final version of the executed settlement agreement is attached as Exhibit 11 to the  
10 Declaration of Sun Lee. This lawsuit is an exercise of that right bargained for by the parties.

12 50.49. Both the conduct and communications by representatives of the Washington Human  
13 Rights Commission are done pursuant to the Washington Law Against Discrimination  
14 (Revised Code of Washington §§ 49.60, et seq.), the enabling regulations (Washington  
15 Administrative Code §§ 162-32-010, et seq.), and at the direction of the Executive Director,  
16 Andreta Armstrong,in executing the statutes and regulations described in this Amended  
17 Complaint.

18 51.50. The HRC and the Attorney General'sG office routinely file civil actions to enforce  
19 WLAD, and have broad statutory authority. The AG and HRC, working collectively, have  
20 recently engaged in highly publicized litigation against those who hold traditional Biblical  
21 views including Union Gospel Mission and Seattle Pacific University, Haven Wilvich's  
22 alma mater.

24 52.51. Plaintiff believes and thereon alleges that they have been targeted by activists  
25 seeking to discriminate against them, and the HRC has furthered this discrimination by

1 failing to investigate the complaint as submitted. Further, the HRC has no legally viable  
 2 reason rational basis for ensuring nudity as between the sexes which furthers the health,  
 3 public welfare, and peace of Washingtonians. Such enforcement, visual pornography, has  
 4 the opposite effect.

5  
 6 53.52. RCW 49.60.240 specifically limits the Commission's authority. The pertinent  
 7 section states: “(2) The investigation shall be limited to the alleged facts contained within  
 8 the complaint.” HRC Agent Imiola went beyond the complaint and failed to investigate the  
 9 claim as stated and ascertain the facts alleged by the Complainant. The policing of speech  
 10 ensued and the Plaintiff's First Amendment rights were abridged.

### 11                   **FIRST CAUSE OF ACTION**

#### 12                   **Violation of the Free Exercise of Religion**

13                   **(42 U.S.C. Section 1983)**

14                   All Defendants

15 54.53. Plaintiffs allege and incorporate herein by reference the preceding paragraphs of this  
 16 Amended Complaint as though fully set forth herein.

17 55.54. The conduct of both Executive Director Armstrong and Investigator Imiola were  
 18 done under color of ~~state~~ law.

19  
 20 56.55. Pursuant to the First Amendment to the United States Constitution, made applicable  
 21 to the States via the Fourteenth Amendment, the Plaintiffs have the liberty to not only  
 22 believe as they do about males and females in a state of undress, but they also have the right  
 23 to freely exercise their religious rights, i.e., to act in accordance with their faith-based  
 24 convictions.

57.56. As applied, the enforcement of the Washington public accommodation laws as against these Plaintiffs, which requires them to service nude males and females in the same rooms, is not neutral nor generally applicable. In this case, WLAD is not neutral because it is not an incidental burden, but a departure from the kind of conduct (nudity) regulated by the State. The facts suggest a motivation by both the HRC investigator and the Complainant which is based in animus towards religion. The motivation is cleverly “masked” with pejorative terms and out-right lies regarding the facts and subsequent investigation. The situation requires Plaintiffs to choose between violating the law or abandoning their religious convictions. This isproves a substantial burden on their religious beliefs.

57. There is no rational basis for the HRC to fail to investigate the truth when presented with proof that the facts alleged did not occur. Use of the term “cis-gender, TERFs, and the like” is dog-whistle terminology for seemingly neutral WLAD enforcement that shows an intentionally calculated attempt to favor anti-Christian sentiments and demean traditional values.

58. Ms. Imiola is making a carve out mechanism for individualized exemptions whereby the HRC exempts from WLAD males who identify as males. Such a system individualized exemption(s) is at the sole discretion of the investigator.

## **SECOND CAUSE OF ACTION**

## **Violation of Freedom of Speech**

(42 U.S.C. Section 1983)

59. Plaintiffs re-allege and re-incorporates all ~~prior allegations in~~ the preceding paragraphs as though fully set forth herein.

1       60. The conduct of Andreta Armstrong and Madison Imiola is done under color of state  
 2 law.

3       61. The Washington Human Rights Commission has required that Olympus Spa remove  
 4 language from its website that has a viewpoint that “biological women” are females and  
 5 distinct from males. ~~Olympus Spa does not hold the view that transgender women are~~  
 6 ~~female or that they can allow pre-operative transgender women into the nude areas of the~~  
 7 ~~spa~~That there is a difference between males and females is an idea that Olympus Spa wishes  
 8 to communicate to the public on its website. The Washington Human Rights Commission  
 9 has forced Olympus Spa to “adopt new language on its website reflecting a  
 10 nondiscriminatory policy” that affirms equal access, service and treatment for all customers  
 11 “without regard to...sexual orientation or gender identity.” Such language compels speech  
 12 about a moral issue for which the Plaintiffs disagree.

14       62. This viewpoint discrimination violates the Plaintiffs’ right to freedom of speech as  
 15 guaranteed by the First Amendment.

17       63. As applied by the HRC, WLAD is being used to control speech. ~~Olympus Spa is~~  
 18 ~~quasi-a is not open to the public~~caters to women and does not offer its services freely to the  
 19 public. The compelled speech implies that it is open to the public and that it does freely  
 20 offer services to those who present male in the nude (exterior genitalia).~~the public.. Such~~  
 21 ~~compelled speech implies that it is thus changing the business model. The only customers~~  
 22 ~~who are turned away are those who are male or present in the nude as mal~~This is a lie, and  
 23 it is against the faith of the owners of the Spa to lie.e.

25       64. By forcing Plaintiffs to abandon their beliefs the State compels them to make  
 26 statements that imply God does not create women and men in His image, and that men are

allowed in the Spa when they are not. This is the basis for a hybrid rights claim where multiple First Amendment protections dovetail.

65. The effect on the business is not “incidental” but “consequential” in that it changes the entire business model through compelled speech. ~~As applied, this is an irrational basis to uphold WLAD.~~ Compelled speech which changes a business model and eviscerates first amendment rights for purposes not related to public health, safety, and welfare are invalid.

66. If the legislature intended for nudity as between the sexes to be included in WLAD protections there would be no indecent exposure laws or they would be amended to reflect such intentions by the legislature as amongst pre-operative transgender women and women.

## **THIRD CAUSE OF ACTION**

## **Violation of the Right of Association**

(42 U.S.C. Section 1983)

67. Plaintiffs re-allege and re-incorporates all prior allegations in the preceding paragraphs as though fully set forth herein.

68. The conduct of —the Defendants wawass done under color of state law.

69. Jane Doe Patron 1 seeks to form and preserve a highly personal relationship via women's health spa treatments with Olympus Spa administered through its employees, including Jane Doe Employee 1.

70. Jane Doe Patron<sup>FMOU21</sup> 1 has visited Olympus multiple times. The peace, safety, and reputation of Olympus is integral in the decision of Jane Doe Patron 1 to continue to frequent the spa. Jane Doe Patron 1 maintains that she has only ever been in the nude in front of intimate sexual partners and patrons of Olympus Spa where prolonged nudity is a

1 ~~requirement. Jane Doe Patron 1 would object to the visual pornography of seeing male~~  
 2 ~~genitalia and being seen in the nude by someone with male genitalia.~~

3  
 4 71.70. On average, between the years of 2018-2022 the rate of return customers is 75% of  
 5 the total customer base. This consistency is due to the highly personal, professional, and  
 6 intimate association this spa has cultivated.

7 72.71. Jane Doe Patron 1 and 22 seeks ~~s~~ to form and preserve the right to expressive  
 8 association inherent in visiting a women's only Korean Spa. Freedom of association is an  
 9 expression of individual sovereignty and autonomy of personhood. Women joining together  
 10 in the nude for self-reflection and repose is such an expressive association. Nudity is an  
 11 expressive activity.

12  
 13 73.72. The individuals' right(s) subordinate to the group in the sense that all must be nude  
 14 and all must have internal genitalia. For instance, a gymnophobie gymnophobe person (one  
 15 who is dysphoric as it relates to nudity) cannot be admitted in spite of their disability and/or  
 16 protected status because nudity is a bona fide requirement. The expressive rights of the  
 17 group supereedesupersede the individual in this instance and the instance of a pre-operative  
 18 transgender woman.

19  
 20 74.73. The expressive association is homogenous in form and by intention of the business  
 21 which is not furthered by allowing persons with external genitalia entry. The expression is  
 22 both inward and outward.

23  
 24 75.74. The ritualistic nature of jjimjilbang is expressly for women and furthers the goals of  
 25 the association. Because people do not know each other by name does not mean their  
 26 association is loose. All women are bonded and the inclusion of external genitalia would

1 impermissibly interfere with the expressive rights to association inherent in Olympus Spa's  
 2 clientele.  
 3

4 ~~76.75.~~ The shared set of beliefs, ideas, and values amongst such expressive association is  
 5 ~~that women are divinely created as to their form~~<sup>MOU3</sup> what drives the business, and  
 6 restoration of health to patrons comes from the peace afforded them at Olympus Spa. The  
 7 right of women to assemble in the nude free from Government entanglement is a protected  
 8 exercise.

9 ~~77.76.~~ Women are expressing their femininity of form free from the public eye in the  
 10 sanctuary created for them by Olympus Spa.

11 ~~78.77.~~ Allowing individuals with external genitalia undermines and impedes Olympus  
 12 Spa's ability to achieve the expressive association goal inherent in a women's only spa. The  
 13 goal being to provide a safe space of sanctuary for women to express their femininity-in a  
 14 ~~safe space~~.

16 ~~79.78.~~ Viewing external genitalia amidst the relaxing spa setting where-in peace and  
 17 ~~femininity~~femininity is contemplated by women erodes the expressive association goals of the  
 18 spa.

20 ~~80.79.~~ ~~The Plaintiffs seek sanctuary and protection from unjustified intrusion by the State.~~  
 21 ~~Stated otherwise, they~~ Olympus Spa patrons wish to choose when and with whom they will  
 22 present in the nude.

23 ~~81.80.~~ As a Christian, Jane Doe Patron 1 does not wish to be unclothed in front of a male  
 24 ~~to~~of whom she is not married.

1       82.81. Likewise, due to the tenets of her faith, Jane Doe Employee 1 does not wish to  
 2       massage and provide body scrubs to naked males.  
 3

4       83.82. The owners of Olympus Spa want to operate the business in a way that does not  
 5       violate their faith. It would violate their faith to force their female employees to give  
 6       massages and body scrubs to fully naked men. Additionally, it would violate their faith to be  
 7       compelled to disregard the God given truth of genitalia as it relates to males and females.

8       84. ~~Jane Doe Patron 3 is a post-operative transgender woman and frequents Olympus~~  
 9       ~~Spa; she is not discriminated against on the basis of her trans status.~~

10      85. ~~All individuals who have male genitalia (Trans, Korean, White, Black, European,~~  
 11      ~~Hispanic, Muslim, 70 years of age or 10 years of age) are denied entry. By applying the~~  
 12      ~~WLAD in a manner that favors pre-operative transgender women over other similarly~~  
 13      ~~situated individuals the WLAD is not neutral nor generally applicable, as applied to the~~  
 14      ~~Christian owners of the quasi-public Spa.~~

16      86.83. Similarly, the owners believe it would violate their faith to be forced under  
 17      Washington's accommodation laws to hire male – even a trans man -- to provide massages  
 18      and body scrubs on unclothed women.

20      87.84. The relationships in Olympus Spa's business between the female employees that it  
 21      hires and the female patrons they serve is not an attenuated relationship. It is an intimate  
 22      one. To have the presence of men ogling female patrons at the insistence of the State  
 23      violates the right to privacy.

24      88.85. The Washington public accommodation laws enforced as against these Plaintiffs,  
 25      which would require females in a state of nature to remain in the presence of naked males,

1       this violates the Plaintiffs' freedom protected by the Bill of Rights to selectively enter into  
 2 and carry on expressive, and/or intimate, private relationships -- or refrain from such  
 3 relationships. As applied, the WLAD is not neutral nor generally applicable. The HRC takes  
 4 the WLAD to the hinterland of reason.

## 6                          FOURTH CAUSE OF ACTION

### 7                          Due Process

#### 8                          (42 U.S.C. Section 1983)

9                          Madison Imiola by Olympus Spa

10       89.86. Plaintiffs re-allege and re-incorporates all prior allegations in the preceding  
 paragraphs as though fully set forth herein.

11       90.87. The complaint filed by Wilvich reads, "In January 2020, I went to  
 12       Respondent'sRespondent's spa for services. Respondent Owner denied me services...."  
 13       Investigator Imiola was uninterested in whether the alleged predicate act occurred.

14       91.88. By not taking evidence as to whether Haven Wilvich actually "went to...the spa,"  
 15       the procedures implemented by Investigator Imiola deprived Olympus Spa of the  
 16       opportunity to be meaningfully heard.

17       92.89. The actions of Investigator Imiola were done under color of law and thereby  
 18       deprived Olympus Spa of procedural due process rights as guaranteed by the Fourteenth  
 19       Amendment.

20       93.90. The conduct of Investigator Imiola in which guilt of violating the Washington Law  
 21       Against Discrimination did not depend on whether the underlying accusation was true,  
 22       deprived Olympus Spa of the right to provide a defense with a presumption of innocence.  
 23       Violation of the Washington Law Against Discrimination is subject to referral for  
 24  
 25

1 prosecution. Investigator Imiola made such a threat. The actions of Investigator Imiola go  
2 beyond the authority vested in the HRC under RCW 49.60.240.  
3

4 91. A determination of guilt by mere accusation violates the substantive due process  
5 rights of Olympus Spa as guaranteed by the Fourteenth Amendment. Ms. Imiola cannot  
6 apply the WLAD to hypothetical situations.

7 92. Since the incident never occurred, she censors Olympus Spa with the threat of  
8 punishment for the underlying thought processes of the Plaintiff's business.

9  
10 94.

#### **FIFTH CAUSE OF ACTION**

##### **Religious Freedom**

11 WA State Const. Art. I, § 11  
12

13 All Defendants  
14

15 95.93. Plaintiffs re-allege and re-incorporates ~~all prior allegations in~~ the preceding  
16 paragraphs as though fully set forth herein.

17 96.94. The Washington State Constitution is broader than ~~it's sits~~ Federalfederal counterpart  
18 in that it provides “absolute freedom of conscience” in the practice of religion.

19 97.95. The conduct of the Defendants has molested the person and property of the  
20 Plaintiffs.

21 98.96. The conduct of the Defendants has materially interfered with the freedom of  
22 conscience of the Plaintiffs, as well as the Plaintiffs' beliefs and religious sentiments.

23 99.97. The religiously motivated beliefs and conduct of the Plaintiffs in operating a female  
24 only spa is not licentious and is not inconsistent with the peace and safety of the state.

¶100-98. The application of the Washington Law Against Discrimination violates a tenet of each of the Plaintiffs' religion. Namely, the religious tenet of modesty between the sexes such that a man and woman should not ordinarily mutually present as unclothed unless married to each other.

101.99. The application of the Washington Law Against Discrimination has a coercive effect against the Plaintiffs such that it compels and/or pressures Plaintiffs to violate a tenet of their faith. Such conduct by the Defendants stands as violative of WA State Const. Art. I, § 11.11.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. A declaration that the Washington accommodation laws being enforced and applied against the Plaintiffs by the Defendants violates the Plaintiffs' freedom of speech;
2. A declaration that the Washington accommodation laws being enforced and applied against the Plaintiffs by the Defendants violates the Plaintiffs' free exercise of religion;
3. A declaration that the Washington accommodation laws being enforced and applied against the Plaintiffs by the Defendants violates the Plaintiffs' right to association;
4. A declaration that the conduct of Investigator Imiola violates the Plaintiffs' rights under the Fourteenth Amendment to procedural and substantive due process.
5. A declaration that the Washington accommodation laws being enforced and applied against the Plaintiffs by the Defendants violates the Plaintiffs' religious freedom rights under WA State Const. Art. I, § 11.

6. An order preliminarily and permanently enjoining the Defendant from enforcing the public accommodation law and implementing regulations as against the Plaintiffs.
7. Nominal damages against Defendant Madison Imiola;
8. Attorneys' fees;
9. Costs of suit; and
10. Any and all other appropriate relief to which Plaintiffs may be entitled within the scope of F.R.C.P. 54(c).

## **DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial on all causes of action and claims to which she has a right to a jury trial.

DATED: June 29, 2023July 2, 2023

—/s Tracy  
Tribbett

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